



Bullying and Harassment

There is a clear legal difference between bullying and harassment.

Bullying – there is no legal definition of ‘bullying’. It is generally defined as ‘malicious behaviour which is offensive or insulting to the recipient, and intimidates or humiliates them’.

It can often be an abuse or misuse of the bully’s power over the recipient, such as a manager bullying an employee.

Harassment is ‘unwanted conduct related to a relevant protected characteristic, which has the effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual’.

So the key difference between harassment and bullying is that the recipient of harassment has a ‘protected characteristic’ and is treated unfairly because of that characteristic.

Why is identifying this important?

If not checked or badly handled, bullying and harassment can create an unhappy and unproductive workplace. So employers and managers should deal with issues promptly and fairly in order to avoid this.

Benefits

Increased productivity – people who are being bullied or harassed can often become stressed and upset, and their productivity will almost certainly go down. The person doing the bullying may also be distracted from their own work.

A workplace where everyone is respected and valued and complaints of bullying are properly managed will undoubtedly be a more productive one.

Reduced sickness and absence – when someone is being bullied or harassed, they are more likely to take time off sick – and for longer periods – or simply not come to work. They may even become so unhappy about the situation that they resign.

When everyone works together as an integrated team in which the contribution of each individual is recognised and valued, fewer days are likely to be lost to sickness.

Friendly working environment – bullying creates a poor working environment, full of hostility and tension. Such an atmosphere is not productive, and will only get worse if nothing is done to change the situation.

Dealing effectively with those who bully and harass others will help build more inclusive, tolerant, respectful and friendly working environment.

Legal implications – employers have a duty of care towards their workers, and therefore have a responsibility to prevent them from bullying and harassment in the workplace. An employee who is being bullied or harassed can raise a grievance against their employer through the normal procedure. But remember that only harassment on the grounds of a protected characteristic has any formal, legal protection.



The protected characteristics

At the heart of the Equality Act 2010 lie the nine 'protected characteristics'. We all have the same protected characteristics and anyone can seek protection under the Equality Act if they feel they have been discriminated against due to these characteristics.

Age – the act protects people of all ages. The Act removed the default retirement age, so most jobs no longer have an upper age limit or set retirement age. Sometimes, because of other legislation, an employer can also insist on an employee being a certain age: for example, to drive a car.

Disability – The Act defines a 'disabled' person as one who has 'a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out day-to-day activities'. This would include things such as using a telephone, reading a book or using public transport. The Act also prevents employers from asking questions about a job applicant's health, absences from work or disability before making an offer of employment.

Gender reassignment – The Act provides protection for a transsexual person: someone who proposes to, starts or has completed a process to change his or her gender.

An individual does not have to be under medical supervision to be protected, so a woman who decides to live as a man but does not undergo any medical procedures would be covered by the Act.

Marriage and civil partnership – The Act protects employees who are married or in a civil partnership against discrimination because of their marriage or partnership. Single people and couples in relationships which are not legally recognised are not protected.

Pregnancy and maternity – a woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and any statutory maternity leave to which she is entitled.

An employee's period of absence due to pregnancy-related illness must not be taken into account when making a decision about her level of sickness absence.

Race – it is unlawful to discriminate against people at work because of their race. For the purposes of the Equality Act 2010 'race' includes colour, nationality, ethnic or national origins. A racial group can be made up of two or more different racial groups (e.g Black Britons).

Religion or belief – Under the Equality Act:

'religion' includes any religion which has a clear structure and belief system

'belief' means any religious or philosophical belief someone might hold. To be considered a belief, it must be worthy of respect in a democratic society and not conflict with the fundamental rights of others.

People are also protected if they don't have a particular religion or belief.

Discrimination because of religion or belief can occur even where both the discriminator and the person discriminated against have the same religion or belief.



Sex refers to the gender of an employee so both men and women are protected under the Act. It is unlawful to discriminate against people at work because of their sex (gender)

Sexual orientation – The Act protects bisexual, gay, heterosexual and lesbian people from discrimination or harassment.

What is the correct process?

It is in every employer's interests to promote a safe, healthy and fair environment in which people can work. As a key part of this process, what should employers do about bullying and harassment?

Step 1: Have a clear policy

Every organisation should have a clear policy on how to deal with bullying and harassment. As a minimum, this should include:

A clear statement that bullying and harassment is unacceptable and any issues relating to instances will be dealt with quickly and fairly

Informal and formal processes for dealing with issues

That disciplinary action may need to be taken against individuals who are complained about

Examples of unacceptable behaviour

The steps the organisation will take to prevent bullying and harassment

The responsibilities of supervisors and managers

And guarantee of full confidentiality for any complaint

How the policy is to be implemented, reviewed and monitored

Step 2: Set a good example

The behaviour of employers and senior managers is important when embedding the correct culture in an organisation.

A culture where employees are consulted and problems discussed is less likely to encourage bullying and harassment than one where there is an authoritarian management style.

Step 3: Maintain fair procedures

Complaints of bullying or harassment should be dealt with promptly, and informally, if possible.

If the complaint can't be resolved informally, or is too serious to resolve informally, then it should be dealt with using the organisation's disciplinary and grievance procedures.

These procedures should allow for confidentiality, and for both the alleged victim and the alleged bull to be accompanied by a companion of their choice during the formal process if informal methods have not been successful.

Step 4: Set standards of behaviour

Every employee should know what is expected of them. This can be done by issuing a statement or guidance on the required standards of behaviour.

Defining what behaviours are acceptable and unacceptable at work can make it easier for individuals to be aware of their responsibilities to others.

Training also increases everyone's awareness of the damage bullying and harassment can do to both the organisation and the individual.

Step 5: Communicate with staff

Relevant policies and procedures on bullying and harassment should be communicated to all staff so that they are aware of their rights and responsibilities.

Every employee should know that complaints of bullying and/or harassment, or any information from staff relating to such complaints, will be dealt with fairly, confidentially and sensitively.

Different processes

When an allegation of bullying or harassment is first raised, every attempt should be made to resolve the issue informally, following the organisation's agreed policies and procedures

If the issue cannot be resolved informally, a formal grievance should be raised, and the outcome notified to those concerned.

If an individual has complained of bullying, this must be dealt with internally, by the company. The final course of action open to the individual is an appeal against the decision of the formal meeting. If, however, the individual has raised a complaint of harassment which they feel has not been dealt with appropriately within the internal procedure, they can make a claim to an Employment Tribunal, as there is legal protection against harassment.

Signed:

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

Position:

Managing Director

Date:

November 2022

